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Abstract

The 'conflict in and around Ukraine' has since its outburst in 2013-14 been one of the major challenges for the European Union (EU) and its foreign policy. While the Organisation for Security and Co-operation in Europe (OSCE) has experienced revival and played a key role in the management of the crisis, the EU has stayed mostly aside, being considered as part of the problem rather than the solution. This understanding stems from the collision between Ukraine's European aspirations and Russia's 'core interests' in the post-Soviet space. As the OSCE took the ownership over the crisis response, one of the important interfaces of the EU's indirect involvement has been its representation in the OSCE. From this perspective, the main analytical question that this paper addresses is how efficient the EU has been as an actor in advancing its goals related to the conflict through and within the OSCE. This paper thus aims to shed light on the relation between EU actorness and effectiveness in a crisis context. It argues that stronger actorness does not necessarily generate more EU effectiveness, or ability to influence outcomes, in the specific setting of a crisis and taking into account the external opportunity structure. The paper finds that in the case of Ukraine and the OSCE greater flexibility in the division of labour between the EU and its member states in external representation enabled a greater effectiveness in crisis response through the OSCE platform. By being pragmatic about its external representation, the EU has successfully 'traded its actorness for effectiveness' in the Ukrainian crisis context.

Introduction: Why the OSCE matters for the EU

The Conference for Security and Cooperation in Europe (CSCE), and subsequently the Organization for Security and Cooperation in Europe (OSCE), used to be at the heart of the European security dialogue. On the basis of the so-called Helsinki Process, the CSCE/OSCE became the backbone of the Eurasian security architecture since the adoption of the Helsinki Final Act in 1975, during the *détente* phase of the Cold War. This was sealed with the decision of the Budapest Summit in December 1994 on the creation of the OSCE in 1995. Since then, “the OSCE has developed and implemented a broad and multidimensional concept of security, focused on negotiations and consensus-making activities, and adapted to various changing circumstances”.¹

Yet, the Organisation soon after the Cold War became “Europe’s Forgotten Security Organization”.² Moreover, being consensus-based, the OSCE’s capacity to act diminished also internally with the emerging heterogeneity of the interests of the participating States, but also as a consequence of “Russian obstructionist policies”³ and American ambivalence. As for the EU, paradoxically, according to Dominguez,⁴ Larivé⁵ as well as van Willigen⁶ and others, the Union itself has contributed, for different reasons, to the decrease of the interest in and importance of the OSCE, despite its commitment to ‘effective multilateralism’.

Nevertheless, if one assumes that the overarching reason for the OSCE’s absence until 2013 is the end of the Cold War, then the increased tensions between Russia and the West, which some observers refer to as the ‘new Cold War’,⁷ might stimulate the OSCE’s revival. Russia’s genuine participation is increasingly inevitable for regional stability, in line with the principle of comprehensive and cooperative

¹ R. Dominguez (ed.), *The OSCE: Soft Security for a Hard World: Competing Theories for Understanding the OSCE*, Brussels, P.I.E. Peter Lang, 2014, p. 17.

² C.J. Morrow & M. Mitchell, “Europe’s Forgotten Security Organization”, *World Policy Blog*, May 28, 2014, retrieved 1/04/15, <http://www.worldpolicy.org/blog/2014/05/28/europes-forgotten-security-organization>.

³ *Ibid.*

⁴ Dominguez, *op.cit.*, p.17.

⁵ M. Larivé, “The European Architecture: OSCE, NATO and the EU”, in R. Dominguez (ed.), *The OSCE: Soft Security for a Hard World*, Brussels, P.I.E. Peter Lang S.A, 2014, pp. 173-174.

⁶ N. van Willigen, “Effective Multilateralism between Unequal Partners: The EU in the OSCE”, in E. Drieskens & L. G. Van Schaik (eds.), *The EU and Effective Multilateralism: Internal and External Reform Practices*, London, Routledge, 2014, pp. 136-152.

⁷ R. Legvold, “Managing the New Cold War: What Moscow and Washington Can Learn from the Last One”, *Foreign Affairs*, July/August 2014, retrieved 5/2/15, <http://www.foreignaffairs.com/articles/141537/robert-legvold/managing-the-new-cold-war>.

security, as defined in the OSCE documents.⁸ The Ukrainian crisis confirms one of the key premises of the OSCE: Euro-Atlantic security has been and remains indivisible⁹ given that “the security of every participating State is inseparably linked to that of all the others”.¹⁰ The geostrategic environment in Europe is clearly changing and dividing lines appear to be re-emerging. Yet, at the same time, these worrying developments can entail the revitalisation of the OSCE’s importance and role as bridge-builder, ‘fairest’ broker as well as institutionalised security provider. Clearly, “in terms of balancing a relationship between Russia and the West, the OSCE has a distinct advantage over NATO and the EU because of its historical ability to create dialogue between the two sides”.¹¹

The EU has been one of the key stakeholders in the Ukrainian crisis since its outburst in 2013. However, at the same time, it is somehow absent, *a priori* for political reasons, from the main formats addressing the crisis in Ukraine. The OSCE, on the other hand, has been directly involved in the crisis response, and that is why interactions between the two entities and within the OSCE since 2013 are the core of this paper. The importance of analysing the EU’s functioning within the OSCE is accentuated by the immediate and significant impacts of the crisis on European security, as the escalation in the form of numerous military exercises, capacity-building activities and declarations on the both sides testify to.¹² More precisely, the paper focuses on the EU Delegation, its role and presence within the OSCE in the context of the Ukrainian crisis. After the entry into force of the Lisbon Treaty the Union became preoccupied with upgrading its status in multilateral fora, insisting on the ‘single’ or ‘one voice’ principle when delivering EU statements. In a regional organisation, like the OSCE, this implies a majority block of 28 member states plus a list of aligned countries, which may generate unexpected dynamics of bipolarity and risks creating deadlock.

The objective of this study is to deepen the understanding of the EU’s representation in the Organisation, by applying the concept of actorness and linking it to the

⁸ Organisation for Security and Co-operation in Europe, *The OSCE Concept of Comprehensive and Co-operative Security: An Overview of Major Milestones*, Vienna, OSCE Secretariat Conflict Prevention Centre Operations Service, June 2009, pp. 3-14.

⁹ M.P. de Brichambaut, former Secretary General of the Organisation for Security and Co-operation in Europe, “The Indivisibility of Euro-Atlantic Security”, speech, 18th Partnership for Peace Research Seminar, Vienna Diplomatic Academy, 4 February 2010.

¹⁰ *Charter of Paris for a New Europe*, adopted at the Second CSCE Summit of Heads of State or Government, Paris, 19 - 21 November 1990.

¹¹ Morrow & Mitchell, *op.cit.*

¹² See, for instance, NATO, *Statement by NATO spokesperson Oana Lungescu on misleading and incorrect Russian statements*, 16 April 2015, retrieved 16/04/15, http://www.nato.int/cps/en/natohq/news_118761.htm?selectedLocale=en.

question of the EU's performance or rather effectiveness, that is, its ability to influence outcomes of international processes. To what extent does the EU pursue the status of a unitary key actor and how does this impact its performance within the OSCE? Does the EU continue to strive to effectively enhance its involvement in the OSCE and to increase the support for the OSCE assignment to deescalate the Ukrainian crisis?

It will be argued that despite the EU's increased interest in the OSCE and a relatively improved EU actorness within the Organisation, the EU's ability to autonomously influence the situation around the Ukrainian crisis has been rather limited. The EU's ability to act autonomously has been constrained not only by the external opportunity structure, such as the politicisation of the crisis and OSCE internal set-up, but also as a result of EU internal factors, such as interests of individual EU member states. These variables not only underline the limits of EU actorness in a major crisis context, in which it is a stakeholder, but also of the intuitive belief that EU actorness and effectiveness are *a priori* positively correlated.

The remainder of this introduction outlines the theoretical foundations of the paper. Throughout the second part the conceptual framework is confronted with practical data. Finally, the concluding part deals with the findings on the EU's effective presence and specific agency within the OSCE in the light of the Ukrainian crisis.

Analytical framework

Embracing the notion of 'effective multilateralism' as stipulated in the European Security Strategy,¹³ the EU could be regarded as a "negotiated multilateral order", intersecting with the multilateral order embodied by the OSCE.¹⁴ Seen from this perspective, the EU shall pursue a specific "modality of going international",¹⁵ which involves not only EU interactions, but also those of the member states, ranging from complementary to adversary.

¹³ Council of the European Union, *A Secure Europe in a Better World: European Security Strategy*, Brussels, 12 December 2003.

¹⁴ S. Blavoukos & D. Baurantonis, "Introduction: The EU Presence in International Organizations", in S. Blavoukos & D. Baurantonis (eds.), *The EU Presence in International Organizations*, London, Routledge, 2010, p. 1.

¹⁵ S. Biscop, "Odd Couple or Dynamic Duo? The EU and Strategy in Times of Crisis", *European Foreign Affairs Review*, vol. 15, no. 3, 2009, p. 13.

In spite of the Lisbon Treaty objectives of increased coherence and consistency in EU foreign policy, there is no single method of EU policy-making¹⁶ and the EU's "international 'presence' is not limited to the EU *collective* actions".¹⁷ In practice, the EU spends a considerable amount of time on internal coordination and consensus building among its member states, which yet leaves the EU a little flexibility in terms of interacting with other actors beyond the agreed language. Furthermore, such "rigidity does not bode well with core assumptions of multilateralism that presupposes some degree of flexibility".¹⁸

All in all, both endogenous and exogenous variables matter when the Union's functioning in multilateral settings is to be seized properly.¹⁹ The paper pays attention not only to these internal dynamics among the EU and its member states – the internal opportunity structure – in the critical context of the Ukrainian crisis', but also considers more in detail the external opportunity structure.²⁰

The EU, an actor per se?

Based on the idea of a context as a dynamic process,²¹ the external opportunity structure "denotes the external environment of ideas and events – the context which frames and shapes EU action or inaction".²² The focus in this regard is on the major structural elements that have potentially the greatest impact on the EU's actorness and effectiveness, for instance the politicisation of the Ukrainian crisis.

However, to assume that the external environment and its exogenous parameters pre-condition the internal dynamics of EU actorness would be a sloppy undertaking since the internal structures, the processes in the OSCE and the 'mixed' representation (that is, member states and the EU) are well-established, durable and of relevant significance. Both, endogenous and exogenous factors have an impact and influence the EU's presence and interactions within international organisations.

¹⁶ L.G. van Schaik, *EU Effectiveness and Unity in Multilateral Negotiations: More than the Sum of its Parts?*, Houndmills, Palgrave Macmillan, 2013, p. 1.

¹⁷ Blavoukos & Baurantonis, *op.cit.*, p. 4 [emphasis added].

¹⁸ Council of The European Union, *A Secure Europe in a Better World: European Security Strategy*, *op.cit.*

¹⁹ K.V. Laatikainen & K.E. Smith (eds.), *The European Union at the United Nations: Intersecting Multilateralisms*, Houndmills, Palgrave Macmillan, 2006.

²⁰ Niemann & Bretherton, *op.cit.*, p. 264.

²¹ *Ibid.*, p. 266.

²² C. Bretherton & J. Vogler, *The European Union as Global Actor*, New York, Routledge, 2006, 2nd edition, p. 24.

Building upon the original definition developed by Sjöstedt, actorness is understood as the ability to function “actively and deliberately in relation to other actors in the international system”.²³ The tendency towards this characteristic appeared in practice, following the entry into force of the Lisbon Treaty, in the form of EU efforts to upgrade its status in different international organisations.²⁴

In the spirit of the Treaties, the EU has been seeking not only a formal recognition, but also formal rights as a distinctive, *sui generis* entity in different international fora. However, the initial euphoria has evaporated with the unexpected difficulties and the tremendous resources that were required in order to achieve a positive voting on a resolution (A/RES/65/276)²⁵ on the participation of the EU in the work of the UN General Assembly (UNGA) in 2011. Yet, external recognition can go beyond a formal acknowledgement and can stem simply from the fact that the EU controls resources and can contribute separately from its member states.²⁶

In practice, the Union has gradually adopted a more pragmatic and creative attitude in this regard, as its OSCE presence shows. Since the EU does not presently have any formal status in the OSCE, it acts as a part of the EU rotating Presidency's Delegation.²⁷ The paper considers also this internal set-up as an appropriate element in relation to the four EU actorness criteria as defined by Jupille and Caporaso.²⁸ Furthermore, the EU and its member states devote considerable resources to the OSCE and, hence, the question is whether the EU is not only a ‘payer’ but also a ‘player’.²⁹

The EU's external representation: actorness vs. effectiveness?

²³ G. Sjöstedt, “The External Role of the European Community”, Saxon House, Swedish Institute of International Affairs, 1977, p. 16.

²⁴ E. Drieskens, “Introduction. A framework for analysing effective multilateralism”, in E. Drieskens & L.G. Van Schaik (eds.), *The EU and Effective Multilateralism: Internal and external Reform Practices*, London York, Routledge, 2014, pp. 2-3.

²⁵ United Nations General Assembly, *Participation of the European Union in the work of the United Nations*, A/65/276 of 3 May 2011, retrieved 1/8/2016, http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/65/276.

²⁶ Gehring, Oberthür & Mühleck, *op.cit.*, pp. 849-865.

²⁷ Organization for Security and Co-operation in Europe, *Rules of Procedure of the Organization for Security and Co-Operation in Europe*, 2006, pp. 8, 10, retrieved 1/8/2016, <http://MC.DOC/1/06>.

²⁸ Jupille & Caporaso, *op.cit.*, pp. 213-229.

²⁹ E.J. Kirchner, “EU Contribution to and Cooperation with Multilateral Organizations”, in S. Blavoukos & D. Bourantonis (eds.), *The EU Presence in International Organizations*, London, Routledge, 2010, pp. 16-33.

The existing literature is not united on a term that would capture and qualify the Union's being, functioning and potential in multilateral settings and, more precisely, the nature of its external representation.³⁰ The fairly complex concept of EU actorness reflects the patchy nature of EU international capabilities³¹ and is based on four criteria. These criteria – recognition, authority, cohesion and autonomy³² – aim to encapsulate the extent of “the EU's possibility to function actively and deliberately in international politics”.³³

Recognition stems from a formal and informal acceptance of the EU as an actor that is more than the sum of its parts,³⁴ internally by its member states, and externally by third states as well as by and within an organisation. Authority is primarily associated with the legal competence to act in a given context, but it can be also extended to an informal authority,³⁵ based on an acquired know-how or through significant expertise.³⁶ Cohesion designates the degree to which the EU “is able to formulate and articulate internally consistent policy preferences”.³⁷ Finally, autonomy is a behavioural criterion of the EU's institutional distinctiveness and, hence, it can be understood as a degree of independence from other actors. Lastly, from a social constructivist angle, this is also the point where ideational forces³⁸ and “perceptions of actorness can feed back to actual actorness”.³⁹

The effectiveness of EU action or ‘problem-solving’ is usually defined as the ability of the EU to accomplish its stated goals. It is also “notoriously difficult to analyse and assess”,⁴⁰ which this paper takes into account. Moreover, as Kirchner emphasises, caution is called for in “equating increased activities with effectiveness”.⁴¹ Also, in

³⁰ Van Schaik, *op.cit.*, p. 7.

³¹ L. Groen & A. Niemann, “EU Actorness and Effectiveness under Political Pressure at the Copenhagen Climate Change Negotiations”, paper presented at the Twelfth European Union Studies Association Conference Boston, Massachusetts, 3-5 March 2011, p. 5.

³² Jupille & Caporaso, *op.cit.*

³³ Groen & Niemann, *op.cit.*, p. 5.

³⁴ K. Čmákalová & J.M. Rolenc, “Actorness and Legitimacy of the European Union”, *Cooperation and Conflict*, vol. 47, no. 2, 2012, p. 260.

³⁵ Informal recognition can be also associated with the notion of legitimacy (based on knowledge, capabilities or expertise), when the EU is recognised on the basis of being a legitimate actor in a given context.

³⁶ Niemann & Bretherton, *op.cit.*, p. 265.

³⁷ M.L.P. Groenleer & L.G. Van Schaik, “United We Stand? The European Union's International Actorness in the Cases of the International Criminal Court and the Kyoto Protocol”, *Journal of Common Market Studies*, vol. 45, no. 5, 2007, p. 972.

³⁸ R.H. Ginsberg, “Conceptualizing the European Union as an International Actor”, *Journal of Common Market Studies*, vol. 37, no. 3, 1999, p. 435.

³⁹ *Ibid.*

⁴⁰ Niemann & Bretherton, *op.cit.*, p. 267.

⁴¹ Kirchner, *op.cit.*, p. 21.

the context of crisis, where the EU is one of the parts of the 'Ukrainian crisis puzzle', its effectiveness should be better understood as an ability to shape and influence the relevant processes in its favour.

Likewise, when it comes to effectiveness of EU action in the world, there are two distinct lines of thinking. On the one hand, there is a conviction that the more the EU is united, the more effective it could be and *vice versa*. This perspective, spread mostly among high-level EU officials and practitioners,⁴² favours more supranationalism and EU competences in foreign policy. On the other hand, a number of scholars questioned whether EU unity or strong actorness automatically lead to EU effectiveness in achieving its goals or influencing multilateral processes.⁴³

Indeed, the relationship between EU actorness and effectiveness, or EU actorness-effectiveness dynamics, is "often under-specified and systematic empirical analysis of EU effectiveness are still relatively rare".⁴⁴ In addition, if we look at the politically plausible concept of an EU 'speaking with one voice', from an outside perspective, such an entity is taken more seriously. In turn, a more united EU potentially leads to a greater resistance from other actors. Seen from a practitioner's angle, the situation is nuanced also internally, as Herman Van Rompuy shared his insights during a seminar at College of Europe: "[O]ne voice is a dream [...] if there is one message it is already good".⁴⁵ That said, there are possibly negative effects of an enhanced EU actorness.⁴⁶ The OSCE environment, revived by the Ukrainian crisis, is a relevant case for the study of an EU 'bloc approach' as other main stakeholders, that is, Russia and the USA, sit at the table.

The following section outlines the EU-OSCE framework and functioning of the EU Delegation and EU member states in the OSCE, the EU performance since 2014 and the EU's ability to act as a unitary actor when dealing with the Ukrainian crisis in the OSCE context.

⁴² D.C. Thomas, "Still Punching below its Weight? Coherence and Effectiveness in European Union Foreign Policy", *Journal of Common Market Studies*, vol. 50, no. 3, pp. 457-458.

⁴³ For instance Niemann, Bretherton, *op.cit.*, p. 268; Van Schaik, *op.cit.*; Thomas, *op.cit.*, pp. 457-474.

M. Carbone, "Between EU Actorness and Aid Effectiveness: The Logics of EU Aid to Sub-Saharan Africa", *International Relations*, vol. 27, no. 3, 2013, pp. 341-355.

⁴⁴ Niemann & Bretherton, *op.cit.*, p. 263.

⁴⁵ H. Van Rompuy, former President of the European Council (2009-2014), "Leadership et prise de décisions dans l'Union européenne", compact seminar, College of Europe, Bruges, 27 April 2015.

⁴⁶ Van Schaik, *op.cit.*, p. 4.

Tracing EU actorness-effectiveness dynamics in the OSCE

In what kind of environment has the EU's external representation in the OSCE been operating and representing EU interests since the adoption and entry into force of the Lisbon Treaty? All 28 EU member states as well as non-EU partner countries in the region are OSCE participating States. The EU and a 'pro-EU bloc' have grown with different waves of EU enlargements and EU external policies. Moreover, its "collective weight inside the OSCE increased, also because the US and Russia have both given the OSCE the cold shoulder".⁴⁷

Similarly, the EU-OSCE power-balance in political, legal and economic terms⁴⁸ changed in favour of the EU since the 1990s. At the same time, "the fact that the EU has managed to grow so fast, physically and in competence, within a continent essentially at peace is part of the CSCE/OSCE achievement".⁴⁹ The Union has given a clear priority to the OSCE human dimension, which has been criticised by the participating States 'East of Vienna', hinting at the double-standards bias of the West, applying divergent principles to supposedly equal partners. Those deadlocks, the lack of US interest, together with the necessity to reaffirm the existing commitments that have not been implemented, has been fuelling scepticism, but also gave an impetus to a so-called 'Helsinki+40' process. This initiative could be grasped as an endeavour to resolve the institutional paralysis, political stalemate within the OSCE in view of revitalising the Organisation.

Even though the Union is a more powerful regional actor, the conflict 'in and around Ukraine' suggests that the OSCE still has a lot to teach the EU whose recurrent challenge is to "curb its youthful impetuosity and occasional brashness in the security field: to learn the skills of listening and watching, as well as talking and doing"⁵⁰. Despite the lack of EU interest in the OSCE, due to overlap⁵¹ between the two institutions in terms of mission and goals, a great number of interfaces exists. The existing inter-institutional framework draws on a historical legacy given that the European Community "was involved in the CSCE from beginning [...] as negotiator

⁴⁷ P. van Ham, "EU-OSCE: Partners or Rivals in Security?", in K.E. Jørgensen (ed.), *The European Union and International Organizations*, London, Routledge, pp. 145-146.

⁴⁸ The OSCE has not got a legal personality and when it comes to its 'Unified Budget' the zero-growth policy at the best has been since several years applied.

⁴⁹ A.J.K. Bailes, J.-Y. Haine & Z. Lachowski, "Reflections on the EU-OSCE Relationship", *OSCE Yearbook 2007*, Baden Baden, Nomos, p. 76.

⁵⁰ Bailes, Haine & Lachowski, *op.cit.*, p. 76.

⁵¹ Van Willigen, *op.cit.*, p. 136.

and signatory of the Helsinki Final Act in 1975".⁵² There are regular contacts between officials on the highest level (e.g. EU-OSCE meetings, between the OSCE Secretary-General and the Commission⁵³) and similarly, on the occasion of the annual OSCE Ministerial Council (MC). Interestingly, whilst in 2013 the High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission (HR/VP) Ashton's participation at the OSCE MC was not confirmed till the very last moment and finally, the EU was represented by Helga Schmid, Deputy Secretary General of the European External Action Service (that is, at the political director level), the new HR/VP Mogherini decided to attend the OSCE MC in Basel under the Swiss Chairmanship-in-Office (CiO). The fact that Swiss Chairman-in-Office, Didier Burkhalter, participated in the Foreign Affairs Council in May 2014 where he had an "exchange of views with ministers on the ongoing situation in Ukraine and the work of the OSCE Special Monitoring Mission (SMM)"⁵⁴ is an unprecedented meeting in the EU-OSCE history, testifying to the sense of urgency.

As Nils Van Willigen underlines, there is also a dense cross-representation and interactions on the working level: annual meetings of EU and OSCE Secretariat officials, participation of OSCE staff in different formats and informal EU committee meetings and working groups.⁵⁵ Nevertheless, these contacts are rather of a technical nature. In the words of an EU official, for instance, the Council's Working Party on the OSCE and the Council of Europe gatherings are empty of substance.⁵⁶

Where and how does the EU Delegation to the International Organisations in Vienna fit? One entire section out of three (the two other sections being the UN and Administrative sections) at the Delegation is dealing with OSCE matters. Until 2012 the Delegation had one Head of EU Delegation, Ambassador Zanathy. However, the events in Ukraine somehow coincided with the arrival of reinforcement, Ambassador and EU Permanent Representative to the OSCE, Thierry Béchet. In addition, in 2016, the section's staff consists of 6 EU officials or seconded national staff, out of which one Junior Professional in Delegation policy officer. Given that the resources the Delegation has at its disposal are rather limited, the OSCE section usually has 4-5 interns whose role very often is to support the entire EU drafting process, that is, the

⁵² Van Willigen, *op.cit.*, p. 144.

⁵³ European Commission, "Meeting with OSCE Secretary General Lamberto Zannier", Brussels, 10 April, 2013, retrieved 20/04/15, http://ec.europa.eu/archives/commission_2010-2014/fule/headlines/news/2013/04/20130410_en.htm.

⁵⁴ European Union, Foreign Affairs Council, *Background*, 12 May 2014, Brussels.

⁵⁵ Van Willigen, *op.cit.*, p. 135.

⁵⁶ Interview 4, *op.cit.*

drafting of the EU statements for different weekly sessions. Unlike other participating States, the EU representation also disposes of its own EU office at the OSCE premises at the Hofburg, which enables it not only to better perform its coordination and administrative functions, but also to strengthen its outreach through presence and diplomatic activism, for instance when holding the weekly EU political dialogues with different groups of EU partner countries, including Russia.

The year 2014 could be understood as a critical moment, when the strategic relationship between the EU and the OSCE has started to gradually transform, which has manifested its bearing on the EU action within and towards the OSCE. It is noteworthy that the EU was relatively slow realising the importance of the OSCE and the potential irreplaceable role it can play in the crisis context.⁵⁷ The conflict brought 'more OSCE' on the EU's agenda, in particular, the extra-budgetary financing of the OSCE, instruments of crisis response, management and conflict resolution, which have shown their practical value when the EU was unable to directly use its crisis management toolbox.⁵⁸ The Union has visibly stepped up its efforts in the OSCE Permanent Council since 2014, as Table 1 shows. The average number of EU statements per plenary session has grown considerably, particularly when it comes to the number of those related to the conflict in Ukraine. Thus, there was almost no single plenary session of the OSCE PC since 2014 where the EU has not delivered at least one statement on 'Russia's Ongoing Aggression against Ukraine and Violations of OSCE Principles and Commitments' or on other current issues linked to the conflict.⁵⁹

⁵⁷ Interview 7, *op.cit.*

⁵⁸ Interview 1, *op.cit.*

⁵⁹ Delegation of the European Union to the International Organisations in Vienna, OSCE and EU, EU statements in the OSCE, retrieved 1/05/15, http://www.eeas.europa.eu/delegations/vienna/eu_osce/eu_statements_osce_meetings/index_en.htm.

Table 1: EU statements in the OSCE Permanent Council (2014 – March 2016)

Year	No. of plenary sessions	No. of statements	No. of EU statements on Ukraine	Average per session (statements on Ukraine/sessions)	Ratio (EU statements/EU statements on Ukraine)
2014	47	198	64	1,36	32,32%
2015	51	216	80	1,57	37,03%
2016*	7	28	12 ⁶⁰	1,74	42,86%

Source: Report EU engagement with other European regional organizations, Large-Scale FP7 Collaborative Project GA No. 320000, FRAME (forthcoming 2016), p. 186.

* Data collected up till 3 March 2016

The increased activism of the EU Delegation, strengthened material and financial support to the OSCE SMM, indicate an amplified interest and engagement, visibility and involvement in the efforts to tackle the Ukrainian crisis on the side of the EU. Yet, a clear evidence of a casual relation between an increased formal activity and the EU's ability to actually influence the outcomes of the conflict resolution would be hard to establish or prove, given the complexity of the subject studied.

EU effectiveness in the OSCE since Maidan

As already mentioned, out of 57 OSCE participating States, the EU with its 28 member states and other, frequently aligned states (that is, the so-called 'like-minded' or 'candidate countries and potential candidates'⁶¹) represent a major bloc in the OSCE, implying an "opportunity to influence the OSCE agenda"⁶² and course of action. On the other hand, such a big bloc of countries, mostly situated to the 'West of Vienna', has the potential to trigger bloc dynamics, generating resistance. Furthermore, even though the EU's aggregate financial commitment⁶³ has relatively decreased since 2000s, the EU's share in funding is still majoritarian. Particularly, in the case of setting up the OSCE SMM and sustainability of its deployment, the EU through its extra-budgetary financing, significant staff secondments and material donations, plays a key-enabling role. Nevertheless, the consensus rule that the OSCE universally

⁶⁰ This includes the "EU Statement in Response to Frank-Walter Steinmeier, Foreign Minister of Germany" given the priority position it attributed to Ukraine in the statement and the extent of Ukraine related content as well as "Interpretative Statement under Paragraph IV.1 (A) 6 of the Rules of Procedure of the OSCE" on the extension of the deployment of OSCE observers to two Russian checkpoints on the Ukrainian- Russian State border.

⁶¹ Before each OSCE Permanent Council, the final version of the EU statements is sent to a list of friendly countries that can decide to align themselves with a given statement and thus, the EU statement finishes with an 'alignment paragraph'. These agreed list of countries include Turkey, FYROM, Montenegro, Iceland, Serbia, Albania, BiH, Liechtenstein, Norway, Ukraine, Moldova, Armenia, Azerbaijan, Georgia, Andorra and San Marino.

⁶² Van Willigen, *op.cit.*, p. 136.

⁶³ The EU is only able to contribute to the extra-budgetary funding of different OSCE field activities and projects, including the SMM in Ukraine, whilst the EU Member States contribute to the so-called OSCE Unified Budget (approximately 65%). See N. van Willigen, *op.cit.*, p. 142.

applies has to be taken into account and, thus, any country's disapproval is enough to block more or less any important decision. This specific quality of the OSCE is its strength but at the same time its Achilles' heel.

Looking at the EU's effectiveness in the OSCE, Van Willigen distinguishes EU internal and external effectiveness, that is, the EU's ability to achieve goals in the OSCE.⁶⁴ In this regard, internal effectiveness *de facto* refers to an improving capacity of the EU Delegation to successfully implement the Lisbon Treaty internally, that is, to function efficiently in coordinating EU member states, deliver upon its tasks and exercise its enhanced role of EU external representation. Since the entry into force of the Treaty, the EU's overall effectiveness has improved. Nonetheless, at the same time, it can be limited by the 'lowest common denominator approach' when negotiating EU positions internally and consequently, by the lack of flexibility when interacting with other OSCE participating States.

The internal effectiveness is also closely interlinked and has its implications for EU actorness within the OSCE, which in turn might have an impact on external effectiveness, that is, the ability to achieve its goal *per se*. When it comes to external effectiveness in a crisis situation, it is rather the ability of the EU to shape and influence the processes and decisions in line with its interests. Indeed, this category depends very much on the definition of EU objectives, which are not always clear and subject to change over time.

Indeed, the EU's objectives, and thus its strategy, in the OSCE are not clear. Are the EU objectives the ones the Union declares in the OSCE Permanent Council each year or the goals that form the fabric of the ESS and the EU Global Strategy,⁶⁵ or both? Although those two layers of sets of goals are not mutually exclusive, the lack of a strategy influences the EU's coherence and, as the past OSCE MCs showed, there is a clear tension between the EU objectives in different domains (for instance between 'strengthening of human dimension commitments' and 'closer cooperation with the EU's Eastern Neighbours and solving of protracted conflicts').⁶⁶

While a comprehensive EU strategy in the OSCE is missing, a concrete impact of the EU Global Strategy's ambitions is still to be seen in the Vienna context. On the one

⁶⁴ Van Willigen, *op.cit.*, pp. 136-153.

⁶⁵ EEAS, "Shared Vision, Common Action: A Stronger Europe: A Global Strategy for the European Union's Foreign and Security Policy", EEAS, June 2016, retrieved 15/06/2016, http://eeas.europa.eu/top_stories/pdf/eugs_review_web.pdf.

⁶⁶ Interview 6, *op.cit.*

had the EU plays undeniably an enabling role in relation to the OSCE and its field missions and projects. On the other hand, its “instrumental use of the OSCE”⁶⁷ limits its overall effectiveness as well as effectiveness of the OSCE as a platform for comprehensive security cooperation and strategic dialogue.⁶⁸

EU in support of the OSCE crisis response: a perfect match?

The EU objectives that could help establish the level of EU external effectiveness are *a priori* reflected in the relevant EU statements, internal EU documents and informally, discussed among EU Heads of Missions. The EU from the very beginning of the Ukrainian crisis insisted on a significant engagement of the OSCE in Ukraine, ensuring the respect of international law, and the restoration of a constructive dialogue between Russia and Ukraine. As the events developed and crisis escalated through 2014 and beyond, the EU continued to reiterate the need to ensure successful presidential elections in Ukraine, to fully implement the Geneva Joint Statement⁶⁹ of representatives of the EU, the US, Ukraine and the Russia as well as the need to extend the SMM’s mandate, while supporting the efforts of the Trilateral Contact Group.⁷⁰ Subsequently, towards the end of 2014, the EU insisted on a swift implementation of the Minsk Protocol, the Memorandum and the UN Security Council Resolution (UNSCR) 1325, an unhindered access of investigators to the MH17 crash sites, improved OSCE monitoring of the Russian-Ukrainian international border as well as a timely and relevant expansion of the SMM’s mandate.⁷¹

Another main concern was the humanitarian situation and the violation of human rights in Eastern Ukraine as well as in Crimea and, consequently, the facilitation by all parties of EU humanitarian aid distribution. In the run up to the OSCE MC in Basel, the EU became seriously concerned by ceasefire violations and efforts to destabilise the situation in Ukraine by the pro-Russian separatists as well as the deteriorating human rights situation in the areas controlled by armed separatist groups, whilst the Protocol and Memorandum have fallen short of a full implementation. Moreover, the OSCE’s

⁶⁷ Van Willigen, *op.cit.*, p. 149.

⁶⁸ *Ibid.*

⁶⁹ European Union, United States, Ukraine & Russian Federation “Geneva Statement on Ukraine” 140417/01, Geneva, 17 April 2014, http://eeas.europa.eu/statements/docs/2014/140417_01_en.pdf, retrieved 2/06/ 2016.

⁷⁰ The Contact Group consists of Russian and Ukrainian representatives and the OSCE’s CiO (that is, the Special Representative of the Chairperson-in-Office of the OSCE, Ambassador Heidi Tagliavini).

⁷¹ European Union, “EU Statement on the Violation of OSCE Principles and Commitments by the Russian Federation and the Situation in Ukraine”, PC.DEL/1240/14, OSCE Permanent Council No 1021, Vienna, 31 October 2014.

potential in terms of UNSCR 1325 implementation has been persistently blocked by the Russian side and referred to the UN level, despite the principles of regional subsidiarity, as stated in Chapter VIII of the UN Charter.⁷²

In its last 2014 and 2015 statements and as the situation in Ukraine has not fundamentally changed, the Union again strongly supported the strengthening of the SMM and its unlimited and safe access, resumption of consultations and the work of the Trilateral Contact Group, permanent monitoring of the Russian-Ukrainian state border by the OSCE⁷³. Moreover, the EU stressed the OSCE's role in facilitating a national dialogue in Ukraine, which would help to consolidate Ukraine's internal cohesion and unity. Lastly, the Union expressed its great interest to work closely with the 2015 Serbian CiO on the resolution of the conflict.⁷⁴ Yet, what out of this list has been achieved so far?

The OSCE, with a 'green light' from all its participating States, has managed to engage in the conflict resolution on several different tracks, such as initiatives of the CiO and Secretary General of the OSCE, OSCE SMM and the Observer Mission at the Russian Checkpoints Gukovo and Donetsk or other OSCE institutions' initiatives to stabilise the situation in Eastern Ukraine. Since November 2013, the OSCE Representative on Freedom of the Media has "monitored the situation in Ukraine closely, bringing attention to grave violations of media freedom, in particular regarding journalists' safety and restrictions to media plurality".⁷⁵ During 2014, the Swiss CiO has actively engaged in the conflict on the highest, presidential and ministerial levels in view of a diplomatic solution to the conflict.

Regarding the humanitarian situation, and especially that of national minority groups, has started to deteriorate, the OSCE High Commissioner on National Minorities stepped in the battleground over language and identity, issuing public statements on the importance of a balanced language policy and spoke out about the rights of national minority communities, in particular the Crimean Tatars.⁷⁶ The two OSCE autonomous institutions mentioned were joined by the Office for Democratic Institutions and Human Rights, upon Ukraine's request, in order to

⁷² Interview 8, US official, 18 April 2016, Brussels.

⁷³ European Union, "EU Statement on the Violation of OSCE Principles and Commitments by the Russian Federation and the Situation in Ukraine", PC.DEL/1480/14, OSCE Permanent Council Nr 1031, Vienna, 18 December 2014.

⁷⁴ *Ibid.*

⁷⁵ OSCE, "OSCE Responds to Crisis in & around Ukraine", 23 April 2015, retrieved 1/05/15, <http://www.osce.org/ukrainemonitoring>.

⁷⁶ *Ibid.*

monitor and report on the overall situation of human right in the affected parts of the country, including gender and displacement issues.

Finally, on 21 March 2014, all 57 OSCE participating States agreed to send a SMM to Ukraine, which already 24 hours after the decision started gathering “information and provides impartial facts-based reports on the security situation on the ground and establishes contacts and facilitates dialogue to reduce tensions”.⁷⁷ A team of “15 international experts to Ukraine as part of a National Dialogue Project, run by the OSCE Project Co-ordinator in Ukraine”⁷⁸ and two more missions were deployed in Ukraine: an Election Observation Mission and an Observer Mission at the Russian checkpoints Gukovo and Donetsk on the border with Ukraine (July 2014).

Devoting its resources and becoming *de facto* the main sponsor, the EU enabled the implementation of the decisions on the SMM. However, it is also clear that the EU goals could have not been reached on the political level without the involvement of certain OSCE participating States, including individual EU member states. There can be no mention of EU goal achievement without taking into account the important ‘synergies’ with the actions taken by its member states in narrower negotiation formats in support of the shared EU goals as outlined in this section.

EU actorness in the OSCE: illusion or meaningful ‘actor in the making’?

Having considered the EU’s ability to (indirectly) influence or shape the outcomes of the OSCE crisis response, this section aims to go more into detail and to shed light on the four criteria of EU actorness, including their relation to EU effectiveness in the OSCE. The EU’s interest in the OSCE, due to the crisis, has undoubtedly grown, both on declaratory and operational levels.

Yet, according to the former Head of EU Delegation Lars-Erik Lundin, the implementation of the relevant Lisbon Treaty provisions is rather complicated in the Vienna context.⁷⁹ Thus, the limits to EU actorness ought to be more observable and identifiable. The fact that the US has not been very visible created a certain

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

⁷⁹ L.-E. Lundin, “The European Union, the IAEA and WMD Non-Proliferation: Unity of Approach and Continuity of Action”, *EU Non-Proliferation Consortium*, Non-Proliferation Papers, no. 9, 2012, p. 4.

leadership vacuum inside the OSCE, leaving the EU “on the opposite side of the political fence from Russia and its shifting coalition of followers”.⁸⁰

Recognition

The recognition of the EU represented by its Delegation has been a peculiar and delicate issue. The European Community has been present and played a vital role within the CSCE/OSCE from the very beginning and is a signatory of the key documents (1975 Helsinki Final Act, 1990 Charter of Paris for a New Europe, 1999 Charter for European Security). Politically, the Union has been recognised as an actor within the OSCE. Nevertheless, it has no formal status *per se*.

Therefore, as the EU Delegation has no position in the OSCE, the practical arrangement is that the EU always teams up with the rotating EU Presidency; known as ‘EUPRES team’, and, its extra seat and nameplate rotate accordingly. This adjustment is reflected in the 2006 OSCE Rules of Procedure⁸¹. With regard to the speaking rights, in the formal meetings, it is always the EU Presidency state that is given the floor first by the Chairperson, immediately passing the floor to the EU representative who delivers a majority of EU statements. The exception in this case are statements on behalf on the member states of the EU dealing with the issue of the OSCE Unified Budget (to which only EU member states contribute), which are read out by the EU Presidency representative. In contrast, the informal meetings are less strict and EU representatives can speak freely, usually on the basis of negotiated and agreed EU lines-to-take (LTTs). When it comes to formal recognition by its own member states, since the adoption and implementation of the Lisbon Treaty, the role of the European External Action Service (EEAS) has been gradually accepted, while keeping a certain *domaine réservé* for the rotating Presidency, for instance budgetary issues.

As the implementation of the Treaty in terms of EU external representation has not been fully achieved in the OSCE, this leaves also some space for the rotating Presidency, not only because member states are basically used to it, but also it is a matter of national prestige of a presiding state to divide the roles within the ‘EUPRES’ team. For instance, during the Lithuania Presidency in 2013, the Presidency permanent representation has retained the chairing of the so-called EU drafting meeting of the Deputies Heads of Missions. This practical arrangement was

⁸⁰ Van Ham., *op.cit.*, p. 143.

⁸¹ Organisation for Security and Cooperation in Europe, *Rules of Procedure of the Organization for Security and Co-Operation in Europe*, *op.cit.*, pp. 8, 10.

acceptable for the EU Delegation, since it was lacking the necessary capacity at that period of time. The situation, however, changed with the following Greek Presidency, when the EU Delegation hired a policy officer and permanently took over the EU drafting sessions⁸². This example illustrates the general acceptance of the EU Delegation by the EU member states in its leading role in line with the Lisbon Treaty provisions and with what is realistically possible within the OSCE.

Yet, the point raised by Gehring, Oberthür and Mühleck concerning informal recognition seems to apply also to the OSCE context: the fact that the EU is not formally recognised is not decisive for its position in the Organisation.⁸³ What does matter are the Union's action capabilities relevant to the work of the OSCE. These relevant capabilities stem partially from the overlap in terms of goals between the EU and the OSCE, that is, EU engagement in the Balkans, the South Caucasus and Eastern Europe as well as its thematic expertise.⁸⁴ Additionally, the EU and its member states are the "major source of extra-budgetary funding of OSCE activities in the field".⁸⁵

In case of the OSCE's SMM in Ukraine, the EU and its member states have also been the major donors in financial as well as material terms, including approximately two thirds of the SMM's seconded staff. Financially, in 2014 the EU has contributed 7 million Euro and in 2015, it will be at least 5 million Euro.⁸⁶ In this regard, the EU's contribution is indispensable for the SMM in Ukraine to operate and continue to exist, which in turns strengthens the EU's participation in the OSCE response due to the SMM's irreplaceable role as monitoring, early warning and de-escalation toolbox on the ground. It can be noted that irrespective of its formal status, the other major players have accepted the EU as a relevant actor.

On the other hand, when considering another major player involved, Russia, it is clear that there is also a tendency to instrumentalise the EU's ambiguous position. In practice, this means that Russia from time to time contests the EU's its right to speak on certain issues, while at the same time, it stresses the Russian willingness to consider

⁸² Interview 3, *op.cit.*

⁸³ Gehring, Oberthür & Mühleck, *op.cit.*, pp. 849-865.

⁸⁴ OSCE, "The European Union", retrieved 21/04/15, <http://www.osce.org/networks/111481>.

⁸⁵ According to Kirchner, until 2008, the EU member states have paid for around 70% of the OSCE filed missions' annual budget. Kirchner, *op.cit.*, p.19.

⁸⁶ Interview 2, *op.cit.*, Interview 3, *op.cit.*

an upgrade of the EU's status as long as the same could be applied to other regional groupings such as the Collective Security Treaty Organisation.⁸⁷

Another example of the interactions between Russia and the EU are the latter's weekly Political Dialogues. The Russian officials regularly attend those meetings but the real discussion is very limited, that is, most of the time an exchange of information about prepared statements or other practicalities. It should be noted in this regard that the bilateral meetings between Russia and major EU member states' officials are held weekly. Hence, the EU is not always the interface for non-EU countries when they want to speak to the 28 EU member states and *vice versa*.

When it comes to the weekly plenary sessions of the OSCE PC and the Ukrainian crisis debate, nothing has changed in the dynamics between the EU and Russia in this setting.⁸⁸ In spite of the EU's efforts of constructive 'engagement and containment' of Russia, the overall relations remain tense since Russia denies any role in the conflict 'in and around Ukraine'. Therefore, there is no meeting of minds in the OSCE plenary sessions and the EU uses it to measure the overall temperature in the OSCE, in the words of an EU official.⁹⁰ In fact, comparing to the experience from the 1990s, the EU 'bloc approach' has allegedly contributed to the negative trend of pre-prepared statements, which in turn contributed to the conversion of the Permanent Council into a platform for monologues, instead of dialogues.⁹¹

Last but not least, as some of the non-EU diplomats attending the plenary sessions suggested, the participating States outside the 'EU club' are more interested in the opinions of influential EU member states rather than the EU's 'one voice', since they know it is most probably the 'least common denominator' position.⁹² In this regard, what works in favour of the EU's recognition and relevance is the increase in its flexibility – a message that in fact has been passed to the EU representatives by some of its partners and chairpersons of different committees.⁹³

⁸⁷ OSCE, Statement by Mr. Sergey Lavrov, Minister for Foreign Affairs of The Russian Federation, at the Nineteenth Meeting of the OSCE Ministerial Council, <http://MC.DEL/21/12>, Dublin, 6 December 2012, retrieved 28/04/15, <http://www.osce.org/mc/97943?download=true>.

⁸⁸ Interview 1, *op.cit.*, Interview 2, *op.cit.*, Interview 7, *op.cit.*

⁸⁹ Interview 7, *op.cit.*

⁹⁰ Interview 3, *op.cit.*

⁹¹ Interview 6, *op.cit.*

⁹² Interview 6, *op.cit.*; Interview 7, *op.cit.*

⁹³ Interview 7, *op.cit.*

The *de facto* recognition of the EU in the Ukrainian crisis context by Russia and its allies is ambiguous and questionable. Still, even though the EU holds no formal status in the OSCE, in the Ukrainian crisis context it matters by virtue of its enabling resources. Hence, it is an actor recognised as relevant due to its action capabilities, especially in relation to the OSCE SMM.

All in all, it can be argued that the Union's position has been improved, at least informally, but also based on the strategy it has formulated and pursued vis-à-vis Russia. In this sense, the overall recognition of the EU as a relevant actor has created a rather favourable than constraining environment for the EU Delegation to have its say in the OSCE crisis response.

Authority

The EU's authority in the OSCE is *a priori* a question of its formal-legal competences.⁹⁴ Indeed, the dispersal of competences within the EU "makes cooperation an intricate matter, especially since conflict prevention and post-conflict rehabilitation thrives on a mixture of economic, financial and diplomatic tools, which often-times find themselves in different hands within EU institutions".⁹⁵

Considering these competences further, the Ukrainian crisis falls into the Common Foreign and Security Policy (CFSP) area of EU foreign policy, which implies a specific type of a competence the Union can claim. Moreover, Declaration No. 14, attached to the Treaty, also excludes pre-emption in the CFSP field since the provisions on CFSP do not affect the power of member states in conducting their foreign policy".⁹⁶ In legal terms, "the nature of the Union's competence in the field of CFSP is not well defined, however, and might be best categorised as a kind of '*sui generis*' competence or shared competence without pre-emption".⁹⁷

Applied to the Ukrainian crisis, legally both the EU and its member states can act. Hence, it is a question of coordination, strategy and tactics, stemming from coherence of preferences and recognition. The fact that the EU has not an exclusive

⁹⁴ Groenleer & Van Schaik, *op.cit.*, p. 974.

⁹⁵ Van Ham, *op.cit.*, p. 145.

⁹⁶ J. Wouters, D. Coppens, & B. De Meester, "The European Union's External Relations after the Lisbon Treaty", in Griller, Stefan & Jacques Ziller (eds.), *The Lisbon Treaty; EU Constitutionalism without a Constitutional Treaty?*, Vienna, Springer, 2008, p. 162.

⁹⁷ *Ibid.*, p. 169.

competence does not automatically entail its ineffectiveness⁹⁸ or impossibility to act deliberately as a unitary actor.

Also, the fact that the EU has been interacting both with Russia and Ukraine, demonstrates that the Union is a regional player and stakeholder as well, and necessitates and legitimised EU foreign policy involvement on different levels and in different ways. However, the EU is not directly involved in dealing with Russia in conflict resolution and negotiations – these are rather single European states, France and Germany – within the ‘Normandy format’. Hence, in addition to the EU statements relevant to the conflict, France and Germany almost always take the floor in the OSCE PC, sometimes echoed by the United Kingdom and Spain as well.

All things considered, when it comes to the authority criterion and its implications for the EU’s actorness, the main point to be made is that what the EU can do independently in Vienna is rather limited. Negotiations are part of a bigger picture that includes several big players, different capitals, the ‘Normandy format’ and the HR/VP. In fact, it can be argued inversely that the EU’s potential effectiveness in this conflict in this case limits its authority to deal with it, while other actors by the virtue of their capabilities have taken the leadership in determining the strategic direction.

Cohesion

Considering the cohesion of the EU in the OSCE framework when dealing with the Ukrainian crisis, three different groups among EU member states can be distinguished.⁹⁹ First, a group of member states that strongly support a principled and normative stance towards Russia, including countries like Poland, the Czech Republic or the Baltic States. The second group took a kind of ‘appeasement’ approach towards Russia in dealing with the conflict, including Germany and other EU countries with strong economic ties with Russia. Finally, there is a ‘middle ground’ group of EU member states that has no strong position.

Specific to the OSCE context and Russian policy within this framework in recent years is that the EU member states share the view that at the present times it is important to safeguard and uphold the existing commitments. Thus, the EU member states’ basic normative views on Russian activities in and around Eastern Ukraine were rather converging. Whilst the EU was able to foster consensus on every EU statement on the

⁹⁸ Van Schaik, *op.cit.*, p. 4.

⁹⁹ Interview 3, *op.cit.*, Interview 4, *op.cit.*, Interview 5, *op.cit.*

conflict, some powerful EU member states have also 'stepped in' in order to assume a balanced leadership.

The EU positions are in practice coordinated in Vienna, among EU member states (horizontal coordination), with Brussels from time to time contributing with some inputs or even a relevant EU Delegation if the subject deals with the country or region where it is situated. Usually, the EU officials in charge of coordination are quite flexible and pragmatic about what comes from Brussels, but in the case of the Ukrainian crisis, the coordination with the Headquarters is significant. The importance of vertical coordination is significant.

There was a common understanding among the 28 Ambassadors that in a hot issue like the 'conflict in and around Ukraine', it is plausible that the EU 'speaks with one voice' and what is said in Vienna has to be in line with what is happening on higher levels.¹⁰⁰ Also, 'speaking with one voice' in the Ukrainian crisis in the OSCE framework has been an important common understanding, fuelled by the fact that the Russian side traditionally favours splits among the EU member states. Indeed, the EU drafting and coordination processes are time-consuming and even though the EU Delegation now has full responsibility of it, the member states are in full control of it. In practice, the EU Delegation liaises closely with the EU *chefs de file*, member states diplomats who are in charge of a particular domain and provide either an impetus for an EU common position and/or provide a first draft of EU statements.

The EU coordination process is lengthy and inward looking. The proposal of possible EU statements is presented to the EU Heads of Missions on Monday. After the Ambassadors give their green light for the proposed topics, or they initiate themselves new ones, the relevant *chefs de file* provide drafts and the EU Delegation takes the ownership of the coordination. First drafts are circulated among EU

¹⁰⁰ Based on the information from Interview 2, an example that could be cited in this sense is that of the maximum number (ceiling) of the OSCE's SMM in Ukraine staff. The subject was debated in Vienna for some time, on the occasion of the renewal of the mandate of the mission. The consensus reached was a ceiling of 500 SMM members, with the possibility of an increase as needed. In the meantime, and before this consensus was formally sealed, there was a bilateral meeting between Chancellor Merkel and President Putin, who agreed on the ceiling of up to 1,000 personnel that the SMM could have. Consequently, this high-level decision had to be flexibly accepted in Vienna and reflected in the formal documents. See for instance: Business Standard, "OSCE doubles Ukraine observer mission to 1,000", Vienna, 13 March 2015, retrieved 22/04/15, http://www.business-standard.com/article/pti-stories/osce-doubles-ukraine-observer-mission-to-1-000-115031300019_1.html.

member states as well as in Brussels based services¹⁰¹ that can add their proposals. Proposals are then reflected and second drafts are uploaded on Agora, the internal communication platform, just before the drafting session of the EU Deputies on Wednesday afternoon. It is at this point where the EU statements are also shared with the group of 'alignment countries', but also with strategic partners such as the US and with Russia.¹⁰² Finally, the EU Heads of Mission meet early on Thursday morning to approve the final drafts of the negotiated positions that are to be delivered in the OSCE PC right after. This final step is not a mere formality, some statements are left open by the Deputies for the Ambassadors to agree on difficult issues, which can be of substantive nature or can relate to the competence issue.

The content and ambition of past EU statements on the 'conflict in and around Ukraine' gives a good idea of the cohesion. Even though all the relevant statements were agreed in the end, there are limits to EU unity, for instance when the Union issued, as a final compromise with one opposing member state, interpretative statements in 2014 and 2015¹⁰³ on the mandate of the SMM.

The EU coordination procedure, which *de facto* lasts 4 days per week and requires at least 2 EU officials, illustrates how heavy the EU coordination is, but also what implications it has for the EU's flexibility and effectiveness once confronted with other opinions. In other words, the ability of the EU to 'speak with one voice' – to present itself as a unitary actor in a first round of formal exchange – is at the 'higher level of actorness' limited by the fact that it cannot engage in a subsequent dialogue straightforwardly.¹⁰⁴ Such a situation is paradoxical and somehow contradicting the EU's declaratory policy.

¹⁰¹ There were efforts to have inputs from Brussels at an earlier stage of the EU drafting process in order to influence it more effectively. However, due to time constraints, this idea works in practice only occasionally, Ukraine being a relevant case in point.

¹⁰² It is only the US that reciprocally shares its statements that are to be delivered on the next day. Whilst Russia does not have the habit of reciprocating this gesture and sharing its statements with the EU, Russian officials usually contact the EU Delegation staff in case final drafts of the EU statements for some reason have not reached them yet.

¹⁰³ European Union, "Interpretative Statement under Paragraph IV.1 (A)6 of the Rules of Procedure of the Organisation for Security and Cooperation in Europe", <http://PC.DEL/328/15>, OSCE Permanent Council Nr 1044 Vienna, 12 March 2015; European Union, "Interpretative Statement under Paragraph IV.1 (A)6 of the Rules of Procedure of the Organisation for Security and Cooperation in Europe", <http://PC.DEL/1486/14>, OSCE Permanent Council Nr 1031 Vienna, 18 December 2014, http://eeas.europa.eu/delegations/vienna/documents/eu_osce/permanent_council/2015/pc_1044_eu_on_extension_of_smm_ukraine.pdf, retrieved 3/08/2016.

¹⁰⁴ Van Willigen, *op.cit.*, pp. 136-152.

Another paradox is that the EU spends a great amount of time on the coordination of common positions, which in turn increases a reaction of its opposition. But at that stage, the EU becomes also inflexible. In the words of an EEAS official, if there is a debate, the EU either remains silent, or limits itself to messages of a strictly factual character.¹⁰⁵ In any case, for their part, the EU Ambassadors are generally not enthusiastic to see the EU asking for the floor if a proper debate starts in the OSCE PC.¹⁰⁶

In terms of effectiveness, there are clearly constraining aspects of the EU operating on the basis of coordinated positions. A strongly centralised coordination and narrowly defined EU mandate are limits to EU effectiveness, making EU unity insufficient to achieve its objectives alone.

Autonomy

The fourth criterion of EU actorness is the autonomy of the EU Delegation in the OSCE framework, when it acts in line with the discretionary powers it has been delegated.¹⁰⁷ In this regard, the CFSP nature of the Ukrainian crisis fosters a particular situation when considering EU autonomy in the OSCE. What has to be firstly taken into account – in line with a multi-faceted and multi-level nature of the EU as an entity – is that it is the HR/VP that represents the EU in the CFSP field. However, it is the European Council that gives the Union an overall strategic guidance for its foreign policy. The EU member states are still very much in charge of the EU foreign policy agenda, which sometimes results in a confused picture of a complicated jigsaw.

In the OSCE context, when it comes to agenda setting, the EU has *de facto* little autonomy. First, each CiO has its own agenda for an entire year and for that the EU automatically prepares a common position. Second, the EU can propose any current issue, but it is always upon approval of the EU Heads of Missions that the EU Delegation and *chefs de file* can initiate the drafting.

Indeed, it should be noted that informal links, personal relations between the officials could be an important factor when it comes to agenda setting and agenda influencing since the diplomats concerned know each other very well and interact very frequently. The EU officials have in fact many informal interfaces to foster their autonomy in terms of agenda influencing when it comes to the EU's vital issues. This

¹⁰⁵ Interview 3, *op.cit.*

¹⁰⁶ *Ibid.*

¹⁰⁷ Groenleer & Van Schaik, *op.cit.*, p. 974.

sociological aspect plays a more significant role than it could seem and would undoubtedly constitute an interesting subject of further study.

Where the EU has theoretically an advantage is its drafting activity of different internal documents that are circulated and discussed in the EU Heads of Missions meetings – non-papers, food-for-thought drafts, LTTs in different informal meetings, and other internal working documents such as the EU's OSCE mid-term, long-term priorities or Helsinki+40 discussion papers. Hence, the EU Delegation has the opportunity and a recognised right of initiative, which it uses on a regular basis, based on the expertise of its officials and their access to key information on different topics.

Nevertheless, in the case of the Ukrainian crisis, France and Germany, by virtue of their involvement in the 'Normandy format', have had better access to information and negotiations held outside the OSCE framework. Germany, in particular, "saw the Organisation as an important opportunity".¹⁰⁸ In this regard, the EU, being pragmatic, closely liaises and teams up with the Delegations of the two EU member states in preparing common positions and coordinating the tactics within the OSCE.

In the same vein, considering the mandate of the EU Delegation within the OSCE, and especially when it comes to Ukraine, the EU's freedom of action is firstly constrained by the development on higher political levels. Thus, the EU officials often find themselves in a more passive position and are limited to listen¹⁰⁹ instead of grasping an opportunity to really interact with their counterparts, for instance, when the Union is invited to relevant informal meetings¹¹⁰ in a more focused format.

Therefore, seen from the outside perspective, the meetings between the Swiss CiO and individual EU member states such as France, Germany or the UK, were more efficient for each side, since the CiO could really obtain concrete commitments from these participating States – unlike from the EU that cannot commit itself (and potentially, its member states) without a mandate¹¹¹.

¹⁰⁸ Kropatcheva, *op.cit.*, p. 17.

¹⁰⁹ Interview 2, *op.cit.*

¹¹⁰ Even though the EU often mentions those informal meetings dealing with the Ukrainian crisis in its statements, the Union did not participate for instance in the informal meeting discussing Unmanned Aerial Vehicles (UAVs) or drones as the means of monitoring the ceasefire in Ukraine, UAVs' role and deployment in UA.

¹¹¹ Interview 7, *op.cit.*

The EU is not regarded as a flexible partner for a (strategic) dialogue as it currently interacts with other actors in the OSCE. There have been even some proposals how to overcome this inflexibility, that is, when in the beginning the EU is able to deliver a very powerful statement, but is unable to properly react in a subsequent discussion. In the end, the EU's strong initial messages are barely recalled. In this regard, for instance, one of the previous Chairs of the OSCE Human Dimension Committee has on several occasions even approached the EU officials suggesting alternatives to 'one voice' tactic, which could be based on creating more synergies with EU member states when defending and negotiating EU positions.¹¹² Such an approach would have the potential to streamline a dynamic within the OSCE, foster dialogue and possibly boost the EU's ability to achieve its goals. A clear-cut separation from other state actors, "improving the EU's formal autonomy and thus actorness does not necessarily lead to optimal outcomes".¹¹³

The assumption that the EU actorness-effectiveness relationship can be inversely proportional applies to the current crisis scenario, when the diplomatic engagement of single EU member states has contributed to the aggregate effectiveness of the 'EU bloc'. However, the question that remains open to further research in relation to the autonomy criterion is whether the involved EU states were in this context acting consciously as "'European actors' and upon commonly accepted 'European values and norms'", alternatively emanating from processes of learning and socialisation within the EU 'club' in Vienna.¹¹⁴ It could be argued that when negotiating with Russia, Germany has its own vital interests in mind, however, given the unprecedented degree of interdependence within the EU, it shall be also acting in the name of the EU and its interests. Hence, this vertical cohesion perspective may in fact imply that the leading EU member states may be acting as 'European actors' and in the common interest.

Building on the analysis of the four criteria of EU actorness, which are rather internal factors, external opportunity structure needs to be taken into account as well when analysing EU actorness-effectiveness relationship. This is particularly important in a geographically close crisis context, in which the EU has its vital interests at stakes.

External opportunity structure

¹¹² Interview 2, *op.cit.*

¹¹³ Groenleer & Van Schaik, *op.cit.*, 974.

¹¹⁴ *Ibid.*, pp. 975-976.

There is a strong interest to consider external variables when studying EU actorness and effectiveness, as Delreux contends:

[R]ecognition depends on the extent to which international institutions [...] and external partners accept the EU as an actor; autonomy is conditional upon the external compellingness and cohesion to a large extent depends on the degree of politicization of the international negotiations.¹¹⁵

On the systemic level, the geopolitical dimension has to be taken into account when evaluating the EU's ability to pursue its goals, as a unitary actor. As Kropatcheva notes, this conflict goes even "beyond what the OSCE can do"¹¹⁶ in spite of its increased relevance, as Putin has "gradually inclined towards the balance-of-power approach",¹¹⁷ which means a greater emphasis on military power, an area in which the EU has no competence.

Another notable aspect touched upon in the literature, which can either weaken or strengthen the Union's quest for a status is the level of politicisation.¹¹⁸ The more prominent persons are involved, the more difficult it is for the EU to act deliberately, as an autonomous and unitary actor. The 'conflict in and around Ukraine', and the involvement of Russia, is the most serious crisis of military nature in Europe since the Yugoslav Wars of the 1990s. It is not "just another crisis, but the crisis, which may lead to the remaking of the European security order".¹¹⁹ Different European states have different (vital) interests when it comes to both, Ukraine and Russia, including energy dependencies and strong economic ties,¹²⁰ which make their involvement on the highest level simply a logical consequence. Some EU member states are more hawkish, some are rather dovish, but not all the actors genuinely concerned have the capacity or relevance to act. Hence, at the end of the day, it comes without surprise that "Merkel has been the West's indisputable interlocutor with Putin".¹²¹

The main challenge is coordination and ensuring that one message is being passed, since 'speaking with one voice' becomes fairly more difficult and the EU cannot influence this that easily. This is once again reiterated in the case of the Ukrainian conflict. However, there are reasons to believe that there is indeed a high degree of

¹¹⁵ T. Delreux, "Revisiting EU actorness in environmental affairs", paper presented at the annual meeting of the Nineteenth Annual Conference of the Council for European Studies, Boston, MA, 24 November 2014.

¹¹⁶ Kropatcheva, *op. cit.*, p. 18.

¹¹⁷ *Ibid.*

¹¹⁸ Groen & Niemann, *op.cit.*, p. 1.

¹¹⁹ Kropatcheva, *op. cit.*, p. 16.

¹²⁰ Interview 5, *op.cit.*

¹²¹ J. Dempsey, "Putin Is Merkel's (and Europe's) Biggest Security Challenge", Carnegie Europe, 2014, retrieved 1/05/15, <http://carnegieeurope.eu/strategieurope/?fa=57241>.

coordination and communication at the highest level as the EU has taken a sensitive political decision not to be directly involved in the negotiations, mediation and conflict resolution.¹²² In the meantime, the value of the OSCE as an actor in Ukraine has increased significantly, “while the rest stayed unchanged”, meaning that the EU’s interest in the OSCE has grown only in this specific case.¹²³

Another aspect of the external opportunity structure is the acceptance of the EU as an actor by external partners, in this case Russia. It is not a secret that when it comes to the EU’s relations with Russia, the latter has always favoured to deal with different EU member states separately. In this case, the only possible way forward has proven to be on the highest level, direct dialogue with President Putin, the German Chancellor Merkel and the French President Holland. It was in this ‘Normandy format’ that the Minsk Agreements were crafted and sealed, while the OSCE is supposed to monitor and oversee their implementation. A similar involvement of actors applies to the existing Trilateral Contact Group, excluding the EU as it consists of the OSCE, Russia and Ukraine. The EU has remained highly committed or rather concerned, however, not directly involved.

Finally, even on the local level, it should be kept in mind that the OSCE is “an organisation for cooperation in Europe, and its capacities depend on the readiness of its participating States for dialogue but also to use the OSCE”.¹²⁴ The EU’s ability to act is hence in addition influenced by the willingness of the rest of the States present at the table, particularly Russia, whose policy towards the OSCE has oscillated between disengagement, disillusionment and ambivalence from 1999 onwards.¹²⁵

Generally, the EU and Russia have been pushing for distinctive agendas: the former for a value-based community, the latter for a community based on a shared interest in preserving peace in the OSCE region.¹²⁶ Consensus as the ‘voting procedure’ thus *a priori* limits the EU’s potential as a major ‘bloc’ in the OSCE and also what the OSCE can achieve since every single State can block any initiative. The ideational structure in terms of the social context and perceptions¹²⁷ seems to be also constraining the EU’s constructive involvement as an actor in the pursuit of its objectives. The

¹²² Interview 3, *op.cit.*, Interview 4, *op.cit.*, Interview 5, *op.cit.*

¹²³ Interview 3, *op.cit.*

¹²⁴ Kropatcheva, *op. cit.*, p. 17.

¹²⁵ *Ibid.*, 11-15.

¹²⁶ Kropatcheva, *op. cit.*, p. 19.

¹²⁷ D.C. Copeland, “The Constructivist Challenge to Structural Realism: A Review Essay”, *International Security*, vol. 25, no. 2, 2000, pp. 187-212.

narratives behind the Ukrainian crisis in Moscow and Brussels are diametrically different and there is no “meeting of minds”.¹²⁸ The EU’s normative identity, generated also by common positions vis-à-vis Russia, in particular in the current crisis context, does not allow it to act as flexibly as individual member states potentially can. Yet, Russia’s narrative, reflected in Putin’s propaganda is also that of an “anti-Russian coup d’état [in Ukraine], sponsored by the West”.¹²⁹

What are the implications for the EU’s efforts as an autonomous actor in the context studied? As Groen and Niemann argue, “in terms of effectiveness it also matters whether the EU has devised a strategy that takes the external environment into account”¹³⁰. Yet, whether the EU Delegation in Vienna has deliberately developed such a comprehensive strategy, giving it a clear direction when it comes to its goals and means towards their achievement, and adjusted to the new geostrategic environment is not easy to trace or prove, based on the materials studied. Rather, it can be argued that the EU team has been relatively pragmatic when closely coordinating with the member states that are engaged in conflict resolution, which is one aspect that favours the Union’s ability to achieve EU goals, overcoming some of the external constraints in synergy with its member states. For the rest, the external opportunity structure, given the urgency and prominence of the crisis, is arguably more restraining the EU’s international actorness as well as effectiveness.

Conclusion

The ‘conflict in and around Ukraine’ has been one of the major European security crises since the Yugoslav wars of the 1990s. Involving a revisionist, re-emerging Russia, the urgency of the crisis is unprecedented, given its potential to undermine the existing European security architecture, established through the Helsinki Process (1975) and since the end of the Cold War. On top of that, given the geographical proximity, close ties with Ukraine and difficult relations with Russia, the EU is one of the major stakeholders in this crisis. Paradoxically, the Union has not been directly involved in the regional crisis response and conflict settlement efforts. As it has become clear after the annexation of Crimea, the OSCE has been the only regional organisation in the position to act effectively towards the conflict resolution and to establish a meaningful presence on the ground, based on its comprehensive security toolbox.

¹²⁸ Interview 3, *op.cit.*

¹²⁹ Kropatcheva, *op.cit.*, p. 16.

¹³⁰ Groen & Niemann, *op.cit.*, p. 4.

Both the urgency of the situation, including a massive impact on the human rights situation in Ukraine, and the EU's inability to take concrete steps have re-focused the EU's interest on what the OSCE can do and how it can do it in the most convenient way, in terms of monitoring and upholding of human rights directly affected by the asymmetrical armed conflict.

This paper analysed the link between EU actorness and effectiveness in the OSCE, where implementation of 'Lisbon' proves to be difficult, in the light of the Ukrainian crisis. It was argued that in this particular context, more EU actorness does not necessarily lead to a greater ability of the EU to influence the outcomes or achieve its goals. Considering the four criteria of EU actorness as well as the external opportunity structure, the EU has been paradoxically a more successful player when it acted in synergy or alongside with the bigger EU member states rather than as an autonomous actor. In other words, the EU, being pragmatic about its external representation, has successfully 'traded its actorness for effectiveness' in the Ukrainian crisis context.

It was shown that in spite of importance of the crisis for the EU (demonstrated by its increased interest and practical contributions to the OSCE SMM), the EU's ability to achieve autonomously its crisis-related goals in the OSCE is rather questionable and limited. Yet, in the situation when EU actorness in the OSCE was constrained internally by its constituent member states – the common, 'European goals' were better achieved. Certainly, this has been the case of the direct involvement of the Delegations of France and Germany in the OSCE framework, their commitment being in line with the high-level political and diplomatic track outside the OSCE. The close cooperation and co-ordination between the EU Delegation and the two member states' delegations in defining common positions, strategy and tactics within the OSCE is another example.

Importantly, elements of external opportunity structure have been touched upon at almost each important instance thorough this paper. This external context (on different levels of analysis) is of a particular importance in a crisis situation and indeed, it has an impact on what the EU can or cannot do, for instance when it comes to a direct involvement of the EU in crisis response and conflict management.

Considering the EU actorness-effectiveness link, it should be firstly noted that the relevant Lisbon Treaty provisions have not been fully implemented in the OSCE.

However, the EU has gained a certain degree of informal recognition as a relevant actor involved in the OSCE crisis response, based on the support of its member states, its action capabilities and enabling contributions to the OSCE presence of which has been considered vital by the all OSCE participating States. Being perceived as a relevant actor has gained the EU invitations to most of the different informal meeting dealing with the crisis. But given the lack of authority, the role of the EU has been more passive, limited to listening and, hence, less effective in actively advancing its goals through focused dialogue. The EU's actorness has proven to be unsustainable at a more advanced level of interaction with third actors.

Considering the OSCE PC plenary format, the EU was able to internally develop a strategy of 'containment and engagement' towards Russia (reflecting the different EU member state preferences) and to pursue it in a united manner. On the other hand, the EU 'speaking with one voice' in the crisis context has had rather a symbolic value: once a common message is delivered, the EU loses its autonomy and flexibility to respond and pursue its objectives. Again, the EU's internal set up and functioning favour its active engagement and maintaining of its actorness, that is, its functioning as an autonomous actor, at a different levels of exchanges with other actors. As a result, some EU member states stepped in (specifically, those politically engaged in the 'Normandy format') and were able to offer real commitments and to negotiate – as 'European actors' and in support of the 'European interests'.

To sum up, the main issues of effective EU presence in the OSCE in dealing with the Ukrainian crisis have been its lack of flexibility, highlighted by the lack of autonomy and authority. However, considering the concrete developments in the OSCE, the EU's ability to achieve its objectives and to shape decisions was more important in 'synergies' with leading EU member states. Thus, if the EU acts in a more pragmatic manner when it comes to its pursuit of a better status as an autonomous actor, it is still able to trade its actorness for more effectiveness in shaping the outcomes. The Union has been constantly adapting and *de facto* experimenting with its representation in an environment where the Lisbon Treaty has been difficult to fully implement. The EU has been more able to shape the OSCE crisis response when it adapted well to the constraints of the external opportunity structure, block dynamics, and responded to it in a pragmatic manner, together with its member states that took a discreet leadership.

All things considered, more layers and constellations of EU actorness in connection with its goal achievement ability can be distinguished. At the same time, concepts

of EU actorness and effectiveness are organically linked to the contexts in which they are studied. This, on the one hand, gives them an important explanatory power of different circumstances and outcomes, which on the other hand, limits the power to draw general conclusions.

Lastly, it should be noted that the crisis setting, where the EU is a stakeholder and where Russia as its major opponent is involved, generates resistance towards this *sui generis* 'actor in the making'. The EU's actorness in the OSCE crisis response context is clearly limited. Yet, this does not mean that the EU (and its member states) is unable to pursue 'European objectives' in a pragmatic manner, through practical arrangements, trading to some extent its status as an autonomous actor for a collective pursuit of concrete results. The changed circumstances in the OSCE highlight the need to define a more specific EU strategy in the OSCE, eventually based on the EU Global Strategy of 2016, involving more actively its member states, which better reflect the external limits to its effective presence.

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